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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/710,630

07/26/2004

Stephen Titus

4751

21005

7590

03/18/2008

HAMILTON, BROOK, SMITH & REYNOLDS, P.C.

530 VIRGINIA ROAD

P.O. BOX 9133

CONCORD, MA 01742-9133

EXAMINER

GRAHAM, MARK S

ART UNIT

PAPER NUMBER

3711

MAIL DATE

DELIVERY MODE

03/18/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/710,630

**Applicant(s)**

TITUS, STEPHEN

**Examiner**

Mark S. Graham

**Art Unit**

3711

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SF 298)  
Paper No(s)/Mail Date 12/26/07.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_.

Claims 1-19 are rejected as failing to define the invention in the manner required by 35 U.S.C. 112, second paragraph.

The claim(s) are narrative in form and replete with indefinite and functional or operational language. The structure which goes to make up the device must be clearly and positively specified. The structure must be organized and correlated in such a manner as to present a complete operative device. **The claim(s) must be in one sentence form only.** Note the format of the claims in the patent(s) cited.

The independent claims, and thus all of the claims, are in multiple sentence format.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1 and 3 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Chang '393 (Chang).

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chang. Chang does not disclose the particularly claimed dimensions. However, he states in paragraph 11 that the dimensions may be altered according to circumstances. It would have been obvious to one of ordinary skill in the art to have altered Chang's dimensions depending on the strength and flexibility desired in the cue stick.

Claims 2 and 11-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chang in view of Yu '424 (Yu). Chang discloses the claimed device with the exception of the foam. However, as disclosed by Yu it is known in the art to use such foam for vibration dampening purposes. It would have been obvious to one of ordinary skill in the art to have used such in Chang's cue for the same reason.

Concerning claims 13-15, Chang does not disclose the particularly claimed dimensions. However, he states in paragraph 11 that the dimensions may be altered according to circumstances. It would have been obvious to one of ordinary skill in the art to have altered Chang's dimensions depending on the strength and flexibility desired in the cue stick.

Claims 7-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chang in view of McCarthy '051 (McCarthy). Chang only discusses the front half of his cue. However, as disclosed by McCarthy the rear half of the cue may also be provided with a continuously increasing wall thickness as claimed. It would have been obvious to one of ordinary skill in the art to have so formed the rear half of Chang's cue as well to obtain the advantages sought by McCarthy.

Regarding claims 8-10, Chang in view of McCarthy does not disclose the particularly claimed dimensions. However, Chang states in paragraph 11 that the dimensions of such cues may be altered according to circumstances. It would have been obvious to one of ordinary skill in the art to have altered the Chang/McCarthy dimensions depending on the strength and flexibility desired in the cue stick.

Claims 16-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to claim 11 above, and further in view of McCarthy. Chang as modified by Yu only discusses the front half of his cue. However, as disclosed by McCarthy the rear half of the cue may also be provided with a continuously increasing wall thickness as claimed. It would have been obvious to one of ordinary skill in the art to have so formed the rear half of Chang's cue as well to obtain the advantages sought by McCarthy.

Regarding claims 17-19, Chang in view of Yu and McCarthy does not disclose the particularly claimed dimensions. However, Chang states in paragraph 11 that the dimensions of such cues may be altered according to circumstances. It would have been obvious to one of ordinary skill in the art to have altered the Chang/McCarthy dimensions depending on the strength and flexibility desired in the cue stick.

The other prior art cited on the PTO '892 form has been provided to show other articles which are similar to that claimed by applicant.

Any inquiry concerning this communication should be directed to Mark S. Graham at telephone number 571-272-4410.

Art Unit: 3711

MSG  
3/13/08

/Mark S. Graham/  
Primary Examiner, Art Unit 3711